

Attorney Docket No.: 5181  
[54716/67859]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re the application of:** TAYLOR et al.  
**Serial No.:** 10/576,733  
**Filed:** November 4, 2004  
**35 USC 371:** Based on PCT/US2004/036977  
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**For:** IMMUNOHISTOCHEMICAL METHODS  
**Attorney Docket No.:** 5181 [54716/67859]

**Group Art Unit:** TBA  
**Examiner:** TBA

Mail Stop: PCT  
Commissioner for Patents  
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**RESPONSE TO NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR  
PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR  
AMINO ACID SEQUENCE DISCLOSURES**

Sir:

This paper is in response to the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures, mailed February 5, 2007, setting a two-month period for response, i.e. up to and including April 5, 2007. While it is believed that this paper is being submitted timely, the Commissioner is authorized to charge any requisite fee, or credit any overpayment occasioned by this submission to Deposit Account No. 04-1105.

**REMARKS**

The Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures indicates that the application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 CFR 1.821(c) or a copy of the "Sequence Listing" in computer readable form as required by 37 CFR 1.821(e). The Notification to Comply requests that the Applicants' include the following item(s) as required for acceptance under 35 U.S.C. § 371:

- (1) A paper copy of the Sequence Listing as required by 37 C.F.R. 1.821(c);
- (2) A copy of the Sequence Listing in computer readable form as required by 37 C.F.R. 1.821(e);
- (3) An amendment specifically directing the entry of the Sequence Listing into the application; and
- (4) A statement as required by 37 C.F.R. §§ 1.821(f) and §1.821(g) that the Sequence Listing information recorded in computer readable form is identical to the written sequence listing and that no new matter is added by the submission of the Sequence Listing or its entry in the application.

Applicants respectfully submit that the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures was issued in error and that submission of a Sequence Listing, including the paper copy, computer readable copy, amendment and statement in accordance with above items (1), (2), (3), or (4), are hereby not required.

The Office is respectfully directed to the M.P.E.P. § 2420, which sets forth the requirements for the disclosure and/or claiming of amino acid and nucleotide sequences in patent applications. In particular, applications containing nucleotide and/or amino acid sequences must contain a separate disclosure of the nucleotide and/or amino acid sequences, i.e. a Sequence Listing. Each sequence is assigned a unique sequence identification number, referred to as "SEQ ID NO." The rules apply to any application which discloses and/or claims any unbranched nucleotide sequence with ten or more bases and any unbranched amino acid sequence having four or more amino acids. The Sequence Listing is "for the purposes of building a comprehensive database and properly assessing prior art." See M.P.E.P. § 2420.

Accordingly, the sequence rules do not apply to applications which do not make any disclosure or which do not claim at least one nucleotide and/or amino acid sequence.

The present application neither claims nor discloses any nucleotide or amino acid sequences. Therefore, the present application does not require a Sequence Listing. And, the sequence listing rules, namely 37 C.F.R. §§ 1.821-1.825, are not germane to the prosecution of this application.

The Office is invited to clearly point to any nucleotide and/or amino acid sequence in the present application which requires a Sequence Listing.

Accordingly, withdrawal of the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures is respectfully requested. Applicants believe that the present application is in condition for acceptance under 35 U.S.C. § 371. Favorable reconsideration of the application is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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Date: April 4, 2007

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